

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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DUNKIN' DONUTS FRANCHISED :  
RESTAURANTS LLC, :  
a Delaware Limited Liability Company, and :  
:

DD IP HOLDER LLC, :  
a Delaware Limited Liability Company, :  
:

Plaintiffs, :

v. :

SHIVAM SUNDRAM INC., :  
a New York Corporation, :  
:

Defendant. :  
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C.A. No. 07-CV-11134 (RJH)

**CERTIFICATION OF RONALD D. DEGEN PURSUANT TO LOCAL RULE 6.1(d)**

1. I am a member of the Bar of this Court and a member of the firm of O'Rourke & Degen, PLLC, local counsel for Plaintiffs Dunkin' Donuts Franchised Restaurants LLC ("Dunkin' Donuts") and DD IP Holder LLC.

2. I have been outside counsel for Dunkin' Donuts in New York State for more than 25 years and am fully familiar with the facts and circumstances of this case and the operation of Dunkin' Donuts franchises.

3. This Certification is being submitted in support of Plaintiffs' motion for a preliminary injunction.

4. The statements made in Plaintiffs' Memorandum of Law and signed by me are hereby incorporated herein by reference and made part of this Certification.

**REASON FOR REQUEST FOR PROCEEDING BY ORDER TO SHOW CAUSE**

5. On November 15, 2007, Defendant's Shop was inspected by a Dunkin' representative, who observed numerous standards violations relating to health, sanitation, and safety. He hand-delivered to Defendant's Shop a notice to cure listing the standards violations and requesting that the violations be cured immediately. On November 23, 2007, when he reinspected Defendant's Shop, he saw that many standards violations remained uncured.

6. The violations of health and safety standards at Defendant's shop included evidence of insects in the shop, failure to label food products with expiration dates, dirty equipment used to make food products, improperly stored food products, dairy products kept at high temperatures, the failure to keep daily temperature records and generally unclean and poorly maintained premises. Despite requests by Dunkin' and ample opportunity to cure, Defendant refuses to correct this unacceptable situation. This is an action to effect an immediate cure of specific conditions currently posing a health or safety risk at Defendant's shop.

7. Every day the health of consumers and the reputation of Dunkin' Donuts are at risk as a result of the refusal of Defendant to clean up its store. The potential damage to the reputation of Dunkin' Donuts may be incapable of being repaired.

8. Unless this Court allows Plaintiffs to proceed by order to show cause, valuable time will have been lost and Defendant will be able to continue to operate a Dunkin' Donuts shop that has insects, dirty equipment, food products that are not protected from contamination, and refrigerated items that are not stored in the cold holding unit.

**CERTIFICATIONS SUBMITTED IN SUPPORT OF MOTION**

9. In support of this application Plaintiff is submitting the Certifications of Jack Laudermilk and Todd Matlovsky (Exhibits 1 and 2).

**NO PREVIOUS APPLICATION**

10. No previous request has been made for the relief requested herein.

I certify under penalty of perjury that the foregoing is true and correct. Executed on this  
17th day of December, 2007.

/s/ Ronald D. Degen  
**RONALD D. DEGEN** (RD 7808)